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*Attorneys for Defendant Scott Carney*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

INTERNATIONAL MARKETS LIVE, INC., a  
New York corporation; CHRISTOPHER  
TERRY, an individual;

#### **Plaintiffs.**

V.

ROBERT HALTERMAN, an individual;  
SCOTT CARNEY, an individual; ETHAN  
VANDERBUILT, an individual;

## Defendants.

Case No: 2:18-cv-00187-JAD-GWF

**DEFENDANT SCOTT CARNEY'S  
REQUEST FOR ENTRY OF FINAL  
JUDGMENT AND MOTION FOR LEAVE  
TO FILE A MOTION FOR AWARD OF  
ATTORNEYS' FEES AND COSTS**

Defendant SCOTT CARNEY, by and through his attorneys, Taft Stettinius & Hollister LLP, respectfully requests Entry of Final Judgment, disposing of the action against Scott Carney, and moves for leave to file a Motion for Award of Attorney's Fees and Costs. In support of his Request for Entry of Final Judgment and Motion for Leave, Scott Carney states as follows:

1       1. Plaintiffs filed their Complaint for defamation *per se*, trade libel, tortious interference with  
2 contractual relations, tortious interference with prospective economic advantage, and civil conspiracy  
3 against Defendants on February 1, 2018. [ECF Nos. 1, 19].

4       2. Plaintiffs served Scott Carney on April 4, 2018.

5       3. On May 10, 2018, Scott Carney filed a Motion to Dismiss Plaintiffs' Complaint for lack of  
6 personal jurisdiction, improper venue, and for failure to state a claim because the allegations made in  
7 Plaintiffs' Complaint were not actionable, and were only brought to harass and silence a critic of its  
8 program. [ECF Nos. 22, 23].

9       4. Following Scott Carney's Motion to Dismiss, Plaintiffs filed an amended complaint without  
10 alleging any additional forum-related facts, and instead listed impermissible and irrelevant post-suit  
11 conduct. Indeed, the only pre-suit conduct they name even related to Nevada was one recording that  
12 Carney had filmed with Plaintiff Christopher Terry that was unrelated to the disputes in this case. [ECF  
13 No. 25 at 2]. *See Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004) ("[T]he  
14 claim must be one which arises out of or relates to the defendant's forum-related activities . . .").

15       5. On January 29, 2019, this Court dismissed all claims against Scott Carney for lack of personal  
16 jurisdiction. [ECF No. 30]. This Court also granted Plaintiffs 20 days, or until February 18, 2019, to  
17 file an amended complaint if they could plead true facts to establish this Court's jurisdiction over Scott  
18 Carney. [ECF No. 30].

19       6. Plaintiffs' failure to timely file an amended complaint should result in closure of this case.  
20 [ECF No. 30].

21       7. At no point did Plaintiffs' Complaint meet the threshold for jurisdictional requirements, a  
22 point this Court acknowledged when it expressed doubt that Plaintiffs could cure the jurisdictional  
23 defects identified. [ECF No. 30].

24       8. To date, Plaintiffs have not filed an amended complaint pleading true facts to establish  
25 jurisdiction over Scott Carney, or even actionable causes of action. Plaintiffs' case against Scott  
26 Carney should therefore be closed.

27       9. Scott Carney now requests Entry of Final Judgment, disposing of all action against him.

1       10. Upon entry of final judgment, Scott Carney also moves for leave to file a Motion for Award  
2 of Attorney's Fees pursuant to Fed. R. Civ. P. 54. Pursuant to Local Rule 54-14, the motion will be  
3 filed with this Court and served within 14 days after Entry of Final Judgment.

4       11. A Federal Court will apply state law regarding the allowance or disallowance of attorney fees  
5 related to state law claims. *Tracy v. CEO, Successor for Deutsche Nat'l Tr. Co.*, No. 3:11-cv0436-  
6 LRH-VPC, 2012 WL 3069192, at \*1 (D. Nev. July 26, 2012). "In Nevada, attorney's fees are  
7 recoverable if permitted by statute, rule, or contractual provision." *Id.*

8       12. Pursuant to Nev. Rev. Stat. Ann. §18.010:

9           [T]he court may make an allowance of attorney's fees to a prevailing party . . .  
10          Without regard to the recovery sought, when the court finds that the claim . . . of  
11          the opposing party was brought . . . without reasonable ground or to harass the  
prevailing party.

12       See *Tracy*, 2012 WL 3069192, at \*1.

13       13. As this Court noted in Its January 29, 2019, Order, It doubted that Plaintiffs could cure the  
14 jurisdictional defects identified and in existence at the time of the filing of the Complaint. [ECF No.  
15 30]. In fact, the only forum-related activity identified by Plaintiff were videos that were not relevant  
16 to the issues in this suit or forum-related activity.

17       14. Given Plaintiffs' lack of filing of an amended complaint that attempted to cure the defects, it  
18 is presumed that Plaintiffs at no point possessed any facts so as to plead and establish this Court's  
19 jurisdiction over Scott Carney. Instead, Plaintiffs' claims against Scott Carney were baseless and  
20 brought to harass Scott Carney, an act that falls under the purview of Nev. Rev. Stat. Ann. §18.010 to  
21 allow attorney's fees.

22       15. Accordingly, Scott Carney respectfully requests leave from this Court to file a Motion for  
23 Award of Attorneys' Fees.

24       16. This motion is not being filed to unduly delay Plaintiffs' claims against any remaining  
25 Defendants.

26           WHEREFORE, Defendant Scott Carney respectfully requests this Court enter an order of final  
27 judgment, disposing of the action against him, and leave so that he may file a Motion for Award of  
28 Attorneys' Fees.

1 Dated: March 4, 2019

Respectfully submitted,

2 SCOTT CARNEY,

3  
4 By: s/ Adam Wolek  
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12 *Attorneys for Defendant Scott Carney*

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1                   **CERTIFICATE OF MAILING**

2                   I HEREBY CERTIFY that pursuant to F.R.C.P. 5 on March 4, 2019, I caused service of  
3 the foregoing via the United States District Court's CM/ECF system.

4                   */s/ Adam Wolek* \_\_\_\_\_

5                   Adam Wolek

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